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09/779,779	02/08/2001	Jean M. Goldschmidt Iki	42390P6482D	6746
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Gordon R. Lindeen III			EXAMINER	
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP			RAMAN, USHA	
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12400 Wilshire Boulevard			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/779,779	GOLDSCHMIDT IKI ET AL.	

Examiner	Art Unit	
Usha Raman	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 August 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 and 7-26 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 and 7-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8-8-07</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments filed March 16th, 2007 have been fully considered but they are not persuasive. Applicant's arguments stating that, "Schein makes no connection between these (identifying multiple versions and selecting based on characteristics)" have been noted. Schein identifies channel overlaps (e.g. NBC on DBS and cable), wherein there exist scenarios wherein overlapping channels from different sources provide overlapping programming content. In such scenarios, identification of channel overlap yields to identification of program overlaps in EPG. Schein additionally discloses that system can be configured to automatically delete the duplicate network name, in which case, upon request for a program, only one of the duplicate network channels carrying the programming at that time is identified and selected. Rosser additionally teaches matching programs that best fit user's preferences, which can be incorporated in the system of Schein and Morrison, so a client can give additional preferences for automatic program selection. For the reasons above, the rejection is maintained.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7, 9-19, 21-22 and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (US PG Pub. 2006/0168620) in view of Morrison (6,359,580) and Rosser (US Pat. 6,446,261).

With regards to claims 1, 10 and 16 Schein discloses an apparatus and a method comprising:

Receiving an EPG at the electronic device (see [0026]);

Receiving a selection of entertainment program within the EPG from a user at the electronic device (see [0032], [0033]);

Schein discloses that duplicate network names may exist the system, wherein a network (such as NBC) maybe transmitted by more than one source. Examiner further notes that, there exist scenarios wherein the same network channel from different sources may provide the programming overlaps. Accordingly, Schein comprises the method of identifying (and therefore determining) multiple available versions of the same selected entertainment program in the EPG when multiple sources of the same network channel exist (see [0031], and [0034]), wherein each of the multiple versions of the same program has a set of characteristics (i.e. airtime, network, signal source, see [0031] and [0035]) indicated by program guide.

Schein also discloses the step of tagging each of the channels with a source identifier (i.e. characteristics) in a merged program guide (see [0018]).

Schein discloses the step of identifying multiple available versions of the same selected entertainment program in the electronic programming guide when a user selects "when else" option (see fig. 3)

Each of the programs displayed in the program guide of Schein comprises a plurality of set of characteristics ("set of characteristics" include, date, airtimes, program source, etc.), wherein some of the characteristics are identified (including when channel and/or program overlaps occurs) for display on EPG (see fig. 2).

Schein also discloses that system maybe configured to automatically delete one of the overlapping channels. If automatic deletion occurs for deleting all but one of the overlapping channels, automatic program selection is configured when the user requested program is carried only on that network channel and is only one source of network channel to choose from (due to automatic deletion). See [0031].

Schein discloses that in lieu of automatic deletion, all instances of the channel overlap maybe displayed in the EPG. See [0031]. Accordingly, multiple identified versions (program overlap on channel overlap) are displayed if automatic program selection has not been configured.

Schein discloses storing a user preference characteristic for activating/deleting channel overlaps in EPG (e.g. activating NBC on DBS and/or cable see [0031]). Schein is however silent on the step of storing a user preference characteristic for configuring automatic program selection. Schein further lacks the teaching of selecting one of multiple versions having the most number of characteristics that conform to user preferences.

In a similar field of endeavor, Morrison discloses the method of storing a user preference characteristic (i.e. source preference) for configuring automatic channel selection for a particular network name. Again, it is noted that there exist scenarios

Art Unit: 2623

of program overlaps on channel overlaps from different sources. In such scenarios, automatic channel selection is translated to configuring automatic program selection from based on user preference for source selection. See Morrison: column 3, lines 7-10 and column 2, lines 59-61.

Rosser teaches the step of using a set of user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting data for an exclusive user database to select content). Rosser shows selecting one of a multiple of content versions based on a set of descriptive information most closely resembling the set of user preferences (col. 8 lines 20-63, col. 12 lines 55-67, col. 13 lines 1-12, 35-45).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in view of Morrison and Rosser's teachings by selecting one of the multiple versions of the entertainment program having the most number of characteristics that conform to the user preferences in order to provide the user with a more customized stream of programming.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Schein in view of Morrison

With further regards to claim 10, the methods are computer executable instructions stored in memory (28) and executed by a processor (26). See Schein: [0024] and [0038]

With regards to claims 2, 11 and 17, the system comprises the step of identifying multiple versions of the entertainment program that start within a threshold period of one another (see Schein: [0038], step 402).

With regards to claims 3, 12 and 18, the multiple versions are provided on different transport media (i.e. DBS and cable), and the system further identifies information regarding the channel transport medium (see Schein: [0018]) and the selection comprises selecting based on the set of transport medium descriptive information (see Schein [0031]).

With regards to claims 4, 13, 19 the system comprises the step of identifying multiple versions that all start approximately at the same time. See Schein: [0038], step 402.

With regards to claims 5, and 14, the selection comprises selecting one of multiple versions having the identified characteristics (e.g. selection source) most closely resembling the user preferences (e.g. preferred selection source) for entertainment program characteristics. See Schein: [0018], [0031].

With regards to claims 7, 15, and 21, the identified characteristic for each of the multiple versions includes the channel transport medium. See Schein [0018].

With regards to claim 9, the system comprises the step of identifying multiple versions in the EPG. See Schein: [0034], [0035].

With regards to claims 22, the system comprises the step of determining the user preferences by receiving preference information through manual inputs from a user.

See Schein [0031], the step of “activating” and “deletion” require user intervention, and therefore are “manual inputs” from the user.

With further regards to Claim 23 and 26, Rosser shows determining the user preferences by monitoring the behavior of the user (col. 8 lines 1-55, col. 9 lines 50-67, col. 12 lines 1-5).

With regards to claim 24, Rosser shows identifying a user of an entertainment system (col. 15 lines 5-28), accessing user preferences for the identified user (col. 15 lines 28), and selecting content from versions of content based on a comparison of the sets of descriptive information (col. 14 lines 50-60).

With regards to claims 25, the system comprises a user interface controller for receiving preferences through manual information inputs from a user.

See Schein: [0024]

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hofmann (US Pat. 5,883,677) discloses a system for maintaining merged program guide database; all the sources associated with a program title are identified in the database (see fig. 6, and column 8, lines 44-46). Upon user query for a program, a plurality of listings sorted by titles (with source identified) or sorted by sources (with titles under each source) can be displayed. See fig. 9A-9B and column 9, lines 13-21.

White (US Pat. 5,596,373) discloses merging program titles with a plurality of different air times in a single row and therefore shows the step of identifying multiple versions of a program. User can select the title to view the multiple start times in order to make selection of a particular program instance. See column 7, lines 35-45 and figures 9 and 15B.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usha Raman whose telephone number is (571) 272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The

Art Unit: 2623

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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